REMARKS

Applicant is in receipt of the Office Action mailed August 12, 2008. Claims 1-18, and 26-28 are pending in the case. Reconsideration of the present case is earnestly requested in light of the following remarks.

Telephone Interview Summary

On Tuesday, October 28, 2008, a Telephone Interview was conducted between the Examiner and Mark S. Williams (Reg. #50,658), in which the cited art of LabVIEW '98 was discussed. More specifically, Applicant noted that the cited palettes of pp.33-1, 33-19, and 51-1 do not display a first plurality of function nodes and "a second plurality of property nodes displayed in the display window, wherein each property node corresponds to a respective one of at least a subset of the plurality of function nodes, wherein each property node is displayed proximate to said respective one of the at least a subset of the plurality of function nodes", as claimed, and further noted that, per discussions with the inventors, in 1998 LabVIEW did not have function specific property nodes corresponding to different function nodes, but rather had a generic property node that was used for all function nodes. Applicant also pointed out that the cited palettes only display this generic property node, labeled with a wrench icon, not a plurality of function node-specific property nodes as claimed. The Examiner indicated that to overcome the cited art of LabVIEW '98, Applicant should submit a 37 CFR 1.132 Declaration stating the relevant facts regarding the cited palettes in a supplemental response, which Applicant agreed to do.

Section 102 Rejections

Claims 1-18, and 26-28 were rejected under 35 U.S.C. 102(e) as being anticipated by LabVIEW Function and VI Reference Manual, January 1998, "LabVIEW '98"). Applicant respectfully traverses the rejection.

Claim 1 recites:

1.   A computer accessible memory medium comprising program instructions, wherein the program instructions are executable by a processor to implement:

displaying a palette, including a display window comprising a plurality of graphical program nodes for use in a graphical program, wherein each graphical program node comprises an icon and program code, wherein each graphical program node is represented by the graphical program node's respective icon in the palette and is selectable from the palette for inclusion in the graphical program;

wherein the plurality of graphical program nodes comprises:

a first plurality of function nodes displayed in the display window, wherein each function node corresponds to a respective functionality; and

a second plurality of property nodes displayed in the display window, wherein each property node corresponds to a respective one of at least a subset of the plurality of function nodes, wherein each property node is displayed proximate to said respective one of the at least a subset of the plurality of function nodes.

Nowhere does LabVIEW '98 disclose displaying a palette that displays a plurality of graphical program nodes, **wherein the plurality of graphical program nodes comprises: a first plurality of function nodes displayed in the display window, wherein each function node corresponds to a respective functionality; and a second plurality of property nodes displayed in the display window, wherein each property node corresponds to a respective one of at least a subset of the plurality of function nodes, wherein each property node is displayed proximate to said respective one of the at least a subset of the plurality of function nodes**, as recited in claim 1.

In asserting that the cited art discloses "a second plurality of property nodes displayed in the display window, wherein each property node corresponds to a respective one of at least a subset of the plurality of function nodes, wherein each property node is displayed proximate to said respective one of the at least a subset of the plurality of function nodes", the Examiner cites pp.33-1 and 33-19, and p.1-2.

Cited p.33-1 and p.33-19 each discloses a VISA palette (which is a sub-palette of an Instrument I/O palette) that includes a VISA sub-palette that includes a plurality of

VISA function nodes and a single generic property node (see the node icon with a wrench symbol on the bottom row). Note that in this edition of LabVIEW (1998) all property nodes are generic–they adapt to a function node type in response to user selection (from a menu) of the class of the property node to which the property node is to be wired, or in response to being wired to the property node. That is why there is only one property node in the VISA palette for *all* the VISA function nodes (and all *other* function nodes, as well). It would not be useful to display a plurality of generic property nodes, as they are all the same. Thus, the cited palette fails to teach or suggest a plurality of property nodes displayed in a display window (of a palette), where each property node corresponds to a respective function node, and where each property node is displayed proximate to the respective function node in the palette.

Cited p.1-2 illustrates a function palette, but does not disclose displaying corresponding function-specific property nodes proximate to respective function nodes.

In the Telephone Interview summarized above, the Examiner also cited the palette of p.51-1. Applicant respectfully notes that this citation also fails to disclose a palette that displays a plurality of property nodes, each proximate to a respective and corresponding function node, and that such function-specific property nodes were not available in LabVIEW in 1998 (the publication date of the cited reference). A 37 CFR Declaration to this effect has been submitted herewith.

Thus, for at least the above reasons, Applicant submits that the cited art fails to teach or suggest all the features and limitations of claim 1.

Independent claims 27 and 28 include similar limitations as claim 1, and so the above arguments apply with equal force to these claims. Thus, for at least the above reasons, claims 27 and 28, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Applicant asserts that numerous ones of the dependent claims recite further distinctions over the cited art.

For example, nowhere does LabVIEW '98 teach or suggest **wherein the first plurality of function nodes are organized in the display window in accordance with one or more of: order of use in a typical graphical program development session; frequency of use in a typical graphical program development session; or functional relationships among the first plurality of function nodes**, as recited in claim 4.

In asserting that LabVIEW '98 teaches "wherein the first plurality of function nodes are organized in the display window in accordance with one or more of: order of use in a typical graphical program development session", the Office Action cites p.1-2, 1-6, and 10-8, but does not explain how these citations teach these features.

Nowhere does p.1-2 mention or even hint at organizing the function nodes in the Functions palette in order of use in a typical graphical program development session. Nor does p.1-6 or p.10-8 mention or even hint at organizing the function nodes in the palette in the manner claimed. Rather, these citations simply explain the functionality of various of the function nodes in the palette.

Thus, the cited art fails to teach or suggest this feature of claim 4.

In asserting that LabVIEW '98 teaches organizing function nodes in the display window in accordance with "frequency of use in a typical graphical program development session; or functional relationships among the first plurality of function nodes", the Office Action cites p.1-2, 33-1, and 33-19, but again does not explain how these citations teach these features.

P.1-2 illustrates a function palette and lists the type of functionality provided by each function node per row of function nodes. However, nowhere does the citation explain or indicate that the function nodes are organized based on frequency of use, nor according to functional relationships among the nodes. Applicant respectfully notes that there does not seem to be any overall functional organization of the palette function nodes; for example, the function nodes in the various rows in the palette differ widely in functionality, e.g., structure node, numeric node, and Boolean node in row 1, comparison node, time node, and dialog file I/O node in row 3, and so forth.

Thus, the cited art fails to teach or suggest these features of claim 4.

Thus, for at least the above reasons, Applicant submits that claim 4, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

As another example, the cited art fails to disclose **wherein the two or more of the channel creation node, the read node, and the write node comprise a primary set of function nodes**, as recited in claim 7.

Cited p.33-5 illustrates and describes various of the VISA function nodes, but makes no mention of two or more nodes forming a primary set of function nodes. In fact, the citation fails to even hint at a primary set of function nodes at all.

Thus, the cited art fails to teach or suggest these features of claim 7.

Thus, for at least the above reasons, Applicant submits that claim 7, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Similarly, the cited art fails to disclose **wherein the one or more of the timing node, the triggering node, the start node, the stop node, and the clear node comprise a secondary set of function nodes; and wherein the primary set of function nodes and the secondary set of function nodes are displayed in the display window in respective groups**, as recited in claim 9.

Cited p.10-2 discusses time, dialog, and error functions, but makes no mention of one or more of these nodes, nor, more particularly, one or more of a timing node, triggering node, start node, stop node, or clear node forming a secondary set of function nodes. In fact, the citation fails to even hint at a secondary set of function nodes at all.

Cited p.12-6 illustrates and describes a (generic) property node, a quit node, and a stop node, but does not describe one or more of these nodes, nor, more particularly, one or more of a timing node, triggering node, start node, stop node, or clear node forming a secondary set of function nodes.

Nor does cited pp.10-6 and 10-8 describe displaying primary and secondary sets of function nodes in respective groups.

Thus, the cited art fails to teach or suggest these features of claim 9.

Thus, for at least the above reasons, Applicant submits that claim 9, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

As a further example, the cited art fails to disclose **wherein, in displaying the primary set of function nodes and the secondary set of function nodes in the display window in respective groups, the primary set of function nodes is displayed in a first column in the display window and the secondary set of function nodes is displayed in a second column in the display window**, as recited in claim 11.

Cited pp.12-1 to 12-3 disclose Application Control Functions, e.g., help functions and menu functions, but nowhere describe or even mention displaying primary and secondary sets of functions nodes as claimed, i.e., in respective columns of the palette. More specifically, the citations fail to disclose the primary and secondary sets of function nodes (as defined in claims 7 and 9, respectively) at all, nor displaying such sets in separate columns. Applicant further notes that the nodes described in pp.12-1 to 12-3 do not include any of the primary or secondary function nodes claimed.

Thus, the cited art fails to teach or suggest all the features of claim 11.

Thus, for at least the above reasons, Applicant submits that claim 11, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Applicant asserts that numerous other ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

Removal of the section 102 rejection of claims 1-18, and 26-28 is earnestly requested.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above-referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Meyertons, Hood, Kivlin, Kowert & Goetzel P.C., Deposit Account No. 50-1505/5150-81100/JCH.

Also filed herewith are the following items:

☒ 37 CFR 1.132 Declaration

☐ Terminal Disclaimer

☐ Power of Attorney By Assignee and Revocation of Previous Powers

☐ Notice of Change of Address

☐ Other:

Respectfully submitted,

/Mark S. Williams/
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AGENT FOR APPLICANT(S)

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